

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

---

JAMES CLIFFORD LeMASTERS, JR.,

Civil File No. 05-515 (DSD/JGL)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

CAROL (UNKNOWN) – MSOP  
SOUTH SIDE NURSE,

Defendant.

---

This matter is presently before the Court for the purpose of determining whether Plaintiff has complied with the Court's order dated April 5, 2005. (Docket No. 3.) That order directed Plaintiff to submit a properly completed United States Marshal Service Form, (USM-285), to enable the Marshal to effect service of process on the named Defendant in this action. Plaintiff was advised that the Marshal would not be able to serve the named Defendant, and that this case could not go forward, unless he submitted the required Marshal Service Form. The prior order also expressly advised Plaintiff that if he did not file his Marshal Service Form by April 22, 2005, he would be deemed to have abandoned this action, and it would be recommended that the action be summarily dismissed for lack of prosecution.

The deadline for complying with the Court's prior order has now expired, and Plaintiff still has not submitted his Marshal Service Form, nor has he offered any explanation for his failure to do so. Therefore, based on the express warning regarding the consequences that would follow if Plaintiff failed to comply with the requirements of the prior order, it is now recommended that Plaintiff be deemed to have abandoned this action, and that the action be

dismissed, without prejudice, for failure to prosecute. See Fed. R. Civ. P. 41(b) (actions may be dismissed for failure to comply with court orders); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be summarily **DISMISSED WITHOUT PREJUDICE**.

Dated: May 3, 2005

s/Jonathan Lebedoff

---

JONATHAN LEBEDOFF  
Chief Magistrate Judge

Pursuant to D. Minn. LR 72.1(c)(2), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties by May 20, 2005, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party’s brief within ten days after service thereof. All briefs filed under this rule shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.